

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4140 of 1990

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

RAMESHBHAI K BAROT

Versus

G S R T C

Appearance:

1. Special Civil Application No. 4140 of 1990
MR MUKESH H RATHOD for Petitioner
MS RESHAM MEHTA with HARDIK C RAWAL for Respondent
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CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 16/06/2004

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution of India the petitioner has challenged the judgment and award made by the Labour Court, Rajkot dated

1st August, 1988 in Reference [L.C.R.] No. 596 of 1983 to the extent it denies grant of backwages to him.

1.1. The petitioner at the relevant time was working as conductor in the bus plied by the respondent. On 3rd November, 1980 he was assigned duty in the bus plying between Anjar and Khirasara. When the bus reached a place called Ambapar, checking squad appeared and tried to check the bus. However, the petitioner did not permit them to enter the bus by opening the door and he also hurriedly started detaching tickets from the tray. It also appears that he instigated the passengers to get down from the bus and protest against the checking squad. It further appears that without being deterred by the protest of the passengers the checking squad proceeded with the inspection and found that the petitioner had unauthorisedly stopped the bus and had permitted 10 passengers to board the bus from a place between Lakhapar and Ambapar, which was not a regular stop on that route. He had collected Rs.3=50 paise from each of them and no ticket was issued to them. On finding these irregularities, the checking squad made the report and on the basis of the same, departmental inquiry was initiated against the petitioner. During the inquiry, adequate opportunity appears to have been given to him to defend his interest. It also appears that on conclusion of the same, charges levelled against the petitioner were held to be proved and the disciplinary authority considering the nature of the alleged misconduct imposed punishment of dismissal from the service. The petitioner raised industrial dispute with regard to dismissal from the service which was ultimately, referred to the Labour Court for adjudication, upon failure of the conciliation proceedings.

1.2. Before the Labour Court, the petitioner filed statement of claim wherein, it denied the aforesaid allegations and averred that he was wrongly dismissed from the service. He prayed reinstatement together with all the incidental benefits including the payment of full backwages.

1.3. The statement of claim was resisted by the respondent by filing written statement wherein, it was averred that the petitioner was guilty of committing acts of misconduct described above and according to it, considering the gravity of seriousness of such misconduct, dismissal from the service was the only punishment that could be awarded to him. It was, therefore, submitted that Reference be dismissed.

1.4. Before the Labour Court the parties produced evidence and after taking the same into consideration, the Labour Court came to the conclusion that punishment of dismissal passed by the disciplinary authority was quite harsh and he was required to be reinstated in service. However, by way of punishment it was thought fit by the Labour Court not to award backwages to the petitioner. It is this part of the award which is now being challenged by the petitioner.

2. Having heard Mr. M.H. Rathod learned advocate appearing for the petitioner and Ms. Resham Mehta learned advocate appearing with Mr. Hardik Raval for the respondent and having gone through the record of the petition, it clearly appears that the petitioner on the relevant date was discharging duty in the bus being plied between Anjar and Khirasara. It also appears that he had committed several irregularities causing monetary loss to the respondent. He had stopped the bus at place which was not a scheduled stoppage. Not only that but permitted ten passengers to board the bus. It also appears that he had not issued tickets to three other passengers and when the checking squad tried to check the bus, he did not permit the members of the checking squad to enter the bus. It is also on record that he had instigated the passengers from getting down from the bus and protest against the checking squad. These facts have been accepted by the Labour Court and it has held that the acts of misconduct alleged against the petitioner have been duly proved. However, on the question of sentence, it has opined that considering the nature of the misconduct the order of dismissal from the service was quite harsh and it was required to be quashed and set aside. No challenge has been made by the respondent to the order of reinstatement. So far as the denial of backwages is concerned, the petitioner's grievance is that no reasons have been assigned by the Labour Court for denying the backwages. However that submission does not seem to be proper because in paragraph 9 of its judgment, the Labour Court has concisely given the reasons showing that looking to the nature of the misconduct committed by the petitioner, it was necessary to impose some punishment in the form of denial of backwages. In view of the fact that the petitioner has committed acts of misconduct whereby, monetary loss has been caused to the respondent - Corporation, I do not find that the order of the Labour Court denying the backwages to the petitioner can be held to be harsh requiring interference by this Court. In other words, in my opinion, the said decision is just and proper and requires no interference by this Court. This petition,

therefore, deserves to be dismissed and it is hereby,
ordered to be dismissed. Rule is discharged with no
order as to costs.

[AKSHAY H. MEHTA, J.]

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